

SENATE BILL 363

D3

11r1516

By: **Senator Raskin**

Introduced and read first time: February 3, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Cases Challenging Constitutionality of Statutes**

3 FOR the purpose of providing that, in any civil action commenced in the District Court
4 or a circuit court to which the State or a county or municipality is not a party, if
5 a party to the action alleges in a pleading, motion, or other paper that a State
6 statute or a county or municipal law, ordinance, or resolution is
7 unconstitutional with respect to the United States Constitution or the Maryland
8 Constitution, the party shall immediately serve the Attorney General, in the
9 case of a State statute, and both the Attorney General and the chief legal officer
10 of the county or municipality, in the case of a county or municipal law,
11 ordinance, or resolution, with a copy of the pleading, motion, or other paper;
12 providing that the Attorney General and the chief legal officer are entitled to be
13 heard in court or to submit in writing their views on the question of the
14 constitutionality of the statute or local law, ordinance, or resolution, or to seek
15 intervention in the action in accordance with the Maryland Rules; repealing
16 certain inconsistent provisions of the Maryland Uniform Declaratory Judgments
17 Act; and generally relating to civil actions challenging the constitutionality of
18 certain State statutes or local laws, ordinances, or resolutions.

19 BY repealing and reenacting, with amendments,
20 Article – Courts and Judicial Proceedings
21 Section 3–405
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2010 Supplement)

24 BY adding to
25 Article – Courts and Judicial Proceedings
26 Section 6–411
27 Annotated Code of Maryland
28 (2006 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 3–405.

5 (a) [(1)] If declaratory relief is sought, a person who has or claims any
6 interest which would be affected by the declaration, shall be made a party.

7 [(2)] (B) Except in a class action, the declaration may not prejudice
8 the rights of any person not a party to the proceeding.

9 [(b) In any proceeding which involves the validity of a municipal or county
10 ordinance or franchise, the municipality or county shall be made a party and is
11 entitled to be heard.

12 (c) If the statute, municipal or county ordinance, or franchise is alleged to be
13 unconstitutional, the Attorney General need not be made a party but, immediately
14 after suit has been filed, shall be served with a copy of the proceedings by certified
15 mail. He is entitled to be heard, submit his views in writing within a time deemed
16 reasonable by the court, or seek intervention pursuant to the Maryland Rules.]

17 **6–411.**

18 (A) (1) IN ANY CIVIL ACTION COMMENCED IN THE DISTRICT COURT
19 OR A CIRCUIT COURT TO WHICH THE STATE IS NOT A PARTY, IF A PARTY TO THE
20 ACTION ALLEGES IN A PLEADING, MOTION, OR OTHER PAPER THAT A STATE LAW
21 IS UNCONSTITUTIONAL WITH RESPECT TO THE UNITED STATES CONSTITUTION
22 OR THE MARYLAND CONSTITUTION, THAT PARTY SHALL IMMEDIATELY SERVE
23 THE ATTORNEY GENERAL, BY CERTIFIED MAIL, WITH A COPY OF THE
24 PLEADING, MOTION, OR OTHER PAPER.

25 (2) AFTER THE ATTORNEY GENERAL RECEIVES THE PLEADING,
26 MOTION, OR OTHER PAPER, THE ATTORNEY GENERAL IS ENTITLED TO:

27 (I) BE HEARD IN COURT ON THE QUESTION OF THE
28 CONSTITUTIONALITY OF THE STATUTE THAT IS IDENTIFIED IN THE PLEADING,
29 MOTION, OR OTHER PAPER;

30 (II) SUBMIT IN WRITING THE VIEWS OF THE ATTORNEY
31 GENERAL ON THE QUESTION OF THE CONSTITUTIONALITY OF THE STATUTE
32 WITHIN A TIME PERIOD THAT THE COURT DETERMINES TO BE REASONABLE; OR

1 **(III) SEEK INTERVENTION IN THE ACTION IN ACCORDANCE**
2 **WITH THE MARYLAND RULES.**

3 **(B) (1) IN ANY CIVIL ACTION COMMENCED IN THE DISTRICT COURT**
4 **OR A CIRCUIT COURT TO WHICH THE STATE OR A COUNTY OR MUNICIPALITY IS**
5 **NOT A PARTY, IF A PARTY TO THE ACTION ALLEGES IN A PLEADING, MOTION, OR**
6 **OTHER PAPER THAT A COUNTY OR MUNICIPAL LAW, ORDINANCE, OR**
7 **RESOLUTION IS UNCONSTITUTIONAL WITH RESPECT TO THE UNITED STATES**
8 **CONSTITUTION OR THE MARYLAND CONSTITUTION, THAT PARTY SHALL**
9 **IMMEDIATELY SERVE THE ATTORNEY GENERAL AND THE CHIEF LEGAL**
10 **OFFICER OF THE COUNTY OR MUNICIPALITY WHOSE LAW, ORDINANCE, OR**
11 **RESOLUTION IS BEING CHALLENGED, BY CERTIFIED MAIL, WITH A COPY OF THE**
12 **PLEADING, MOTION, OR OTHER PAPER.**

13 **(2) AFTER THE ATTORNEY GENERAL AND THE CHIEF LEGAL**
14 **OFFICER OF THE COUNTY OR MUNICIPALITY RECEIVE THE PLEADING, MOTION,**
15 **OR OTHER PAPER, THE ATTORNEY GENERAL AND THE CHIEF LEGAL OFFICER**
16 **ARE ENTITLED TO:**

17 **(I) BE HEARD IN COURT ON THE QUESTION OF THE**
18 **CONSTITUTIONALITY OF THE COUNTY OR MUNICIPAL LAW, ORDINANCE, OR**
19 **RESOLUTION THAT IS IDENTIFIED IN THE PLEADING, MOTION, OR OTHER**
20 **PAPER;**

21 **(II) SUBMIT IN WRITING THEIR VIEWS ON THE QUESTION OF**
22 **THE CONSTITUTIONALITY OF THE COUNTY OR MUNICIPAL LAW, ORDINANCE, OR**
23 **RESOLUTION WITHIN A TIME PERIOD THAT THE COURT DETERMINES TO BE**
24 **REASONABLE; OR**

25 **(III) SEEK INTERVENTION IN THE ACTION IN ACCORDANCE**
26 **WITH THE MARYLAND RULES.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2011.